IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14419 of 2004

Between:

Nanduri Sinivasa Rao, S/o. Srivenkateswara Sarma,
R/o. Bhadrachlam, Khammam District.

..... PETITIONER

AND

The Government of Andhra Pradesh, Rep. by its Special Secretary,
Revenue (J) Department, Secretariat, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased toissue Writ, Order, or Direction, more particularly one in the nature of Writ of Mandamus, declaring that, the Memo. No. 392/J2/79 dt. 10-07-1981 issued by the respondent, and consequent proceedings by the Settlement Machinery of the respondent, effecting ryotwari settlement in respect of the Lakshmidevipeta Freehold lands, including the land of the petitioner in O.S.No.26 measuring an extent of Acs.15-00, which correlated to R.S.No.44 with an extent of H.5-79(equivalent to Acs.14-47 cents) in the absence of any notification under Sec.6 and 11 of the Regulation 2/70, is illegal, arbitrary, without authority, jurisdiction or Statutory power, and against the provisions of A.P. Scheduled Areas Ryotwari Settlement Regulation 2/1970, and quash the said memo, as it is violative of Articles 13,14, 162, 300 A and Art.244 R/W V Scheduled to the Constitution and against the interest of petitioner. The Hon'ble Court consequently be pleased to direct the respondent to give suitable instructions in maintaining the village accounts during the pendency of the proceedings before the Tribunals in the interest several ryots and to direct the respondent or anybody on its behalf, not to interfere with the possession of the petitioner over the land and to give suitable instructions to its subordinate machinery to consider the case of the petitioner under A.P. Rights in Land & Pattadar Pass Books Act & the rules made there under, by granting ryot pass books.

Counsel for the Petitioner:MR.P.V.RAMANA

Counsel for the Respondent: GP FOR REVENUE

The Court at the admission stage made the following :

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ORDER:

The petitioner claims to be the owner and possessor of agricultural land admeasuring Acs.14.79 in R.S.No.44 of Lakshmidevipeta village of Bhadrachalam Revenue Mandal, out of a total extent of Acs.1109.15. According to the petitioner, the land is a free hold not covered by the A.P.Scheduled Areas Ryotwari Settlement Regulation, 2/1970 (for brevity "the Regulations"). Be that as it is the petitioner obtained a settlement patta from the Settlement Officer. It appears the Director of Settlements *suo motu* exercised powers under Section 9(3) of the Regulations and cancelled the settlement patta and remanded to the Settlement Officer for *denovo* enquiry. Again, the Settlement Officer by an order dated 10.08.2001 granted patta. Aggrieved by the same, the Mandal Revenue Officer filed appeal before the Director of Settlements to set aside the patta, who cancelled the same by order dated 21.03.2003.

The petitioner herein preferred a further appeal under Section 9(3) of the Regulations to the Commissioner of Land Revenue on 20.06.2003. As no orders are passed, the petitioner filed the writ petition challenging the Government Memo bearing Memo No.392/J2/79, dated 10.07.1981, whereby and whereunder, the Government agreed with the view of the Commissioner of Survey Settlements and advised that Regulation 2/70 is also applicable to Government as well as free hold villages both in Badrachalam and Nugur Taluks of Khammam District.

As the appeal of the petitioner was heard and is still pending, this Court is not inclined to express any opinion as to whether the Regulation 2/1970 is applicable to freehold villages in agency areas. Further, after obtaining instructions, the learned Assistant Government Pleader for Revenue (General) submits that the Commissioner of Land Revenue has heard the matter and reserved the same for orders on 08.06.2004. Therefore, it would be in the interest of the petitioner as well as the Government to dispose of the writ petition, directing the appellate authority namely the Commissioner of Land Revenue to pass appropriate orders within a period of one week from today.

The learned counsel for petitioner also invites the attention of this Court to Memo No.892/J2/80, dated 17.07.1980, wherein, the Government instructed all revenue officials not to evict the claimants whose cases are pending before the Settlement Officer for grant of ryotwari patta. He would therefore urge that pending disposal of the appeal before the Commissioner of Land Revenue, the respondent and other revenue officials are not entitled to take any coercive steps. He also placed reliance on an unreported judgment delivered by this Court in W.P.No.10988 of 2003, ***Smt.T.Sarojini v. Mandal Revenue Officer, Kunavaram Mandal***, wherein this Court directed the revenue officials not to evict the claimants pending consideration of their application for ryotwari patta. After perusing the Government Memo dated 17.07.1980, this Court is of considered opinion that the petitioner is justified in seeking to protect his possession of land. The writ petitioner is certainly entitled to

continue in possession till his appeal is disposed of. Therefore, pending appeal, he shall not be evicted from the land, if he is in possession of the land.

The writ petition, with the above observations and directions, is disposed of.

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(V.V.S.RAO,J.)

Date:16.08.2004

Note:

Registry to dispatch a copy of the order to

1. The respondent
2. Commissioner of Land Revenue(Appeals)

Within a week.

Jsu

To

1. The Government of Andhra Pradesh, Rep. by its Special Secretary,
   Revenue (J) Department, Secretariat, Hyderabad.

2. The Commissioner of Land Revenue (Appeals), Hyderabad.

3.2CCs to the G.P for Revenue, High Court Buildings, Hyderabad (OUT).

4.2CD copies.